

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 98-7719

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

DEBBIE BEAFORE,

Defendant - Appellant.

Appeal from the United States District Court for the Northern District of West Virginia, at Clarksburg. Irene M. Keeley, District Judge. (CR-94-84)

Submitted: May 13, 1999

Decided: May 18, 1999

Before WIDENER and MOTZ, Circuit Judges, and BUTZNER, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Debbie Beafore, Appellant Pro Se. Samuel Gerald Nazzaro, Jr., Assistant United States Attorney, Wheeling, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Debbie Beafore appeals from her conviction for use of a fire-arm during and in relation to a drug trafficking offense in violation of 18 U.S.C.A. § 924(c)(1) (West 1994 & Supp. 1999). We lack jurisdiction, however, to consider the merits of her appeal because it is untimely. Criminal defendants have ten days from the entry of the judgment or order at issue to file a notice of appeal. See Fed. R. App. P. 4(b). The appeal periods established by Rule 4 are mandatory and jurisdictional. See Browder v. Director, Dep't of Corrections, 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)).

Beafore was convicted pursuant to her guilty plea on January 27, 1995. Beafore filed her notice of appeal on November 2, 1998.* Beafore's failure to note a timely appeal therefore deprives this court of jurisdiction to consider her appeal on its merits.

Accordingly, we dismiss Beafore's appeal as untimely. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED

* The record discloses that Beafore, a pro se inmate, delivered her notice of appeal to prison officials on this date. See Houston v. Lack, 487 U.S. 266, 276 (1988) (stating that pro se prisoner's notice of appeal is filed at moment of delivery to prison authorities for forwarding to district court).